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(18)

LOWER CANADA.

RETURN to an ADDRESS of the Honourable The House of Commons,
dated 16 March 1837;—for,

COPY of any Information received from the Earl of *Gosford* respecting the
DEBT due by Sir *J. Caldwell* to the Province of *Lower Canada*; together
with a Copy of the REPORT of a Select Committee of the House of
Assembly of that Province on the same subject.

Colonial Office, Downing Street, }
16 May 1837.

G. GREY.

SCHEDULE.

- No. 1. Copy of a Despatch from Lord Aylmer to Viscount Goderich, dated Castle of St. Lewis,
Quebec, 20 February 1833 - - - - - p. 1
No. 2. Copy of a Letter from Mr. Under Secretary Hay to J. K. Stewart, Esq., dated Downing-
street, 16 May 1833 - - - - - p. 2
No. 3. Copy of a Despatch from Lord Glenelg to the Earl of Gosford, dated Downing-street,
4 August 1835.—(3 Enclosures) - - - - - p. 2
No. 4. Copy of a Despatch from the Earl of Gosford to Lord Glenelg, dated Government House,
Montreal, 15 July 1836.—(5 Enclosures) - - - - - p. 5
No. 5. Copy of a Despatch from Lord Glenelg to the Earl of Gosford, dated Downing-street,
18 September 1836. - - - - - p. 8
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— No. 1. —

COPY of a DESPATCH from Lord *Aylmer* to Viscount *Goderich*.

My Lord,

Castle of St. Lewis, Quebec,
20 February 1833.

Correspondence
respecting
Sir J. Caldwell.

I TAKE the liberty of soliciting your Lordship's attention to the proceedings
which are still in progress in regard to the affairs of Sir John Caldwell, late
Receiver-general of this province, the speedy termination of which proceedings
appears to be highly desirable, with a view to the public interest.

About four years ago a judgment was obtained by the Attorney-general of
Lower Canada against Sir John Caldwell, as late Receiver-general of the
province, for the sum of 90,000 *l.* and upwards, besides interest, being the amount
unpaid by him when removed from office. The real estate of Sir John Cald-
well was subsequently taken in execution, in satisfaction of this debt, but the
sale was prevented by an opposition on the part of his son, Henry John Cald-
well, which was afterwards, by the judgment of the Court of Appeals, dismissed;
from this judgment Mr. Henry Caldwell instituted an appeal to His Majesty in
his Privy Council, and within the time prescribed by law, he has produced a
certificate from the clerk of the Privy Council of his appeal having been
lodged.

It does not appear from any communication which has been received by the
executive government of the province, that any further proceeding has taken
place in England towards obtaining the final decision of the Privy Council upon
the appeal of Mr. Caldwell. The actual state of this affair must, of course, be
within your Lordship's knowledge; and I take the liberty of representing the
expediency of bringing it to a termination at the earliest period that circum-
stances will admit of; for should the death of Sir John Caldwell take place
whilst it still remains undecided, new obstacles may be opposed by his heirs to
its final adjustment, whereby the public interest cannot fail to be materially
affected.

I have, &c.
(signed) *Aylmer*.

Correspondence
respecting
Sir J. Caldwell.

— No. 2. —

COPY of a LETTER from Mr. Under Secretary *Hay* to *J. K. Stewart*, Esq.

Sir,

Downing-street, 16 May 1833.

20 Feb. No. 19.

I AM directed by Mr. Secretary Stanley to transmit to you herewith a copy of a despatch from the Governor of Lower Canada, directing attention to the proceedings which are still in progress before the Lords of the Privy Council, in regard to the affairs of Sir John Caldwell, late Receiver-general of that province, and I am to request that you will lay the same before the Lords Commissioners of His Majesty's Treasury, and acquaint their Lordships that as, for the reasons therein stated, it is very inexpedient that this case should remain any longer undecided, Mr. Stanley would recommend to their Lordships that their solicitor should be instructed to take such steps as may be necessary for bringing the appeal before the Privy Council, in this case, to an early decision.

I am, &c.

(signed) *R. W. Hay*.

— No. 3. —

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Gosford*.

My Lord,

Downing-street, 4 August 1835.

30 July.

WITH reference to Lord Aylmer's despatch of the 20th February 1833, upon the subject of the appeal brought by William Meiklejohn, as "tutor to the substitution contained in the testament olographe of the late Honourable Henry Caldwell," against the judgments of the courts in Lower Canada, in regard to the seigniority of Lauzon, I have now the honour to transmit, for your Lordship's information, the copy of a letter which has been addressed to my under secretary, by direction of the Lords Commissioners of the Treasury, enclosing an order made by His Majesty in Council, on the 25th June 1834, affirming the previous decision of the provincial courts in this case; and I have to request that you will instruct the Attorney-general of Lower Canada to take the necessary steps for giving effect to this order, and for recovering from the appellant, in conformity with it, the sum of 318*l.* 17*s.* 6*d.*

I have, &c.

(signed) *Glenelg*.

Enclosures in No. 3.

(No. 1.)

Sir,

Treasury Chambers, 30 July 1835.

WITH reference to Mr. Hay's letter of 16 May 1833, and to subsequent correspondence that has taken place with the Colonial Department on the subject of an appeal stated to have been lodged by Sir John Caldwell, late Receiver-general of Lower Canada, against a decision of the courts there, with regard to the seigniority of Lauzon, I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit herewith copy of a letter from their Lordships' solicitor, dated 17th instant, with the enclosed Order in Council, and to request you will move Lord Glenelg to give the directions suggested by the solicitor, in regard to the recovery of the costs awarded by this Order.

I am, &c.

R. W. Hay, Esq.,
&c. &c. &c.

(signed) *J. Stewart*.

(No. 2.)

Sir,

Treasury, 17 July 1835.

WITH reference to your letter of the 19th December 1832, transmitting copy of a letter from Lord Howick, of the 24th November in that year, respecting an appeal stated to have been

been lodged by Sir John Caldwell, late Receiver-general of Lower Canada, against a decision of the courts there, with regard to the seigniority of Lauzon, and directing me to take the necessary steps for supporting the decision of the courts of Canada, I beg leave to acquaint you, for my Lord's information, that I have defended this appeal in the Privy Council, and that judgment has been obtained affirming the decision of the Canadian courts, with costs amounting to 318*l.* 17*s.* 6*d.* sterling.

I have, this day, received the Order in Council to this effect, which, I submit, should be sent to His Majesty's Secretary of State for the Colonial Department, in order to be forwarded to the colony.

As the costs are to be paid by the appellant, I submit that the Secretary of State should be requested by my Lords to direct the Governor of Lower Canada to instruct the attorney-general to recover these costs from the appellant.

I am, &c.

(signed) *Charles Bouchier.*

The Hon. James Stewart.

Correspondence
respecting
Sir J. Caldwell.

(No. 3.)

At the Court at St. James's, the 25th of June 1834.

Present,—The King's Most Excellent Majesty in Council.

Whereas there was this day read at the Board a Report from the Judicial Committee of the Privy Council, dated the 21st of June, instant, in the words following, viz. :—

Your Majesty having been pleased, by your Order in Council of the 16th of October 1833, to refer unto this Committee (amongst other petitions and appeals then pending and unheard) the humble petition and appeal of William Meiklejohn, tutor to the substitution contained in the testament olographe of the late Honourable Henry Caldwell, against your Majesty's Attorney-general for the province of Lower Canada, and the Honourable John Caldwell, setting forth that the late Honourable Henry Caldwell, of Belmont, near Quebec, in Lower Canada, being possessed of the seigniority of Lauzon and other estates, made and wrote, in his own handwriting, his last will and testament as follows :

"I, Henry Caldwell, of Belmont, near Quebec, being of sound mind and memory, &c., do make and publish this my last will and testament, hereby revoking all and every other will heretofore made.

"*Imprimis*,—I hereby direct" (this relates to his funeral.) "Secondly,—Having every reason to be content with the conduct, affection and duty of my dear son John Caldwell, I give and bequeath to him all my estates real and personal, all my just debts being first paid, and subject to such legacies, bequests and limitations as are hereafter mentioned and provided for, viz.:

"And first: it is my will that my grandson Henry, or such other of my grandsons that may hereafter be born in wedlock, and whom my said son John may consider as most deserving, shall inherit the seigniority of Lauzon entire without any diminution. The remainder of my real estate I leave to my said son John, at his disposal, trusting that he will be a good steward for the benefit of his children, which, however, will be considered as subject to my other legacies as aforesaid."

That next follow several particular legacies, after which the will ends thus :

"Item.—I leave to my good friends, Colonel and Mrs. Barnes, Miss Christian Nairn, Edward Bowen, Esq. Attorney-general, and Mrs. Bowen his wife, 20*l.* currency, each, to buy a ring in memory of their friend. Item.—To Doctor James Davidson, whatever sum he may be in my debt at the time of my decease, and also 20*l.* currency. Item.—I leave also to William Hamilton, nephew to my late dear wife, 20*l.* currency, as a testimony of my regard, and to purchase a ring in remembrance of me. Item.—I leave to the poor who, in the course of the winter, have been in the habit of receiving from me a weekly allowance, to each 40*s.* Item.—I leave to my dear niece, Eliza Caldwell, daughter of my late brother, Sir James Caldwell, 100 *l.* sterling, as a mark of my regard and affection. And whereas, my dear brother Charles Caldwell, a lieutenant in His Majesty's navy, died in the year 1776, in low circumstances, leaving his widow and an only daughter, whose christian name I do not remember; and whereas I take blame to myself at never having taken proper steps to inform myself of the situation and circumstances of that his said daughter, it is my will, desire and request that my said son may cause inquiry to be made respecting his said daughter, and if alive, or has left any family, that she or they may receive the sum of 200 *l.* sterling; she, if alive, the whole."

That the testator died at Belmont, in Canada, on the 28th of May 1810, and his will was duly proved before the Honourable Mr. Justice Williams, one of the Justices of the Court of King's Bench in Quebec, and registered in the book of probates at the suit of the respondent John Caldwell, the testator's only son, on the 5th of June in the same year; whereupon the said John Caldwell took possession of his deceased father's estate, and particularly of the seigniority of Lauzon, of which he has ever since remained in possession. That, on the 17th of March 1826, a writ of execution was sued out of the Court of King's Bench at Quebec, by the Attorney-general of Lower Canada, against the lands and tenements of the

Correspondence
respecting
Sir J. Caldwell.

said respondent John Caldwell, and by virtue of that writ the sheriff seized the seigniori of Lauzon as belonging to him. That upon this being done an opposition *afin d'annuller* was exhibited by Henry John Caldwell, the only son of the said John Caldwell, claiming to be the absolute proprietor of the seigniori of Lauzon in virtue of the bequest made to him thereof by his grandfather, the testator, by his will above set forth. That, at the same time, the appellant having been appointed tutor to the substitution contained in that will, made his opposition *afin d'annuller*, praying that the above-mentioned will of the said Henry Caldwell might be declared good and valid, and that the seigniori of Lauzon might be declared subject to the substitution thereof contained in the said will (testament olographe) of the said Henry Caldwell, and that the seizure thereof at the suit of the respondent, the Attorney-general, might be declared null and void. That to this latter opposition, which is the subject matter of the present appeal, the respondent, the Attorney-general, put in a variety of pleas, and the appellant replied thereto, and produced various documentary evidence; and in order to show at what period the testator made his will, as the same does not bear any date, the appellant produced the original letters patent of the 10th of September 1808, appointing Edward Bowen, Esq., Attorney-general of Lower Canada, the said Edward Bowen being a legatee named in the will of the testator, and therein designated "Edward Bowen, Esq., Attorney-general;" and the testator having died in May 1810 it was thereby established that the will must have been made between the month of September 1808 and the month of May 1810. And the appellant having also proved the same to have been wholly written by the testator himself, and other proceedings having taken place, the cause came on for hearing on the 16th of April 1827, in the Court of King's Bench at Quebec, when the court took time to consider, and on the 13th of June 1827 the following judgment was pronounced: The court, considering that the will of the late Henry Caldwell, Esq., in his lifetime Receiver-general of this province, hath neither been executed according to the laws of Canada nor to the form prescribed by the laws of England, so as to pass the estate or seigniori of Lauzon, it is adjudged and decreed that the opposition of Henry John Caldwell in this cause filed be and the same is hereby dismissed. The court, considering that the will of the late Henry Caldwell, Esq., in his lifetime Receiver-general of this province, hath neither been executed according to the laws of Canada nor to the forms prescribed by the laws of England, so as to pass the estate or seigniori of Lauzon, it is adjudged and decreed that the opposition of William Meiklejohn *es qualites* in this cause filed be and the same is hereby dismissed. That the appellant being advised that the said judgment was contrary to law, he appealed therefrom to the Court of Appeals for the province of Lower Canada, and upon the same coming on for hearing the following judgment was pronounced, 30th July 1828: "The court having heard the attorney-general on behalf of our Sovereign Lord the King, and the other parties by their counsel, it is considered and adjudged that the judgment of the Court of King's Bench for the district of Quebec in this cause, of the 13th day of June 1827, be and the same is hereby confirmed with costs; and it is ordered that the record be remitted to the said Court of King's Bench." That the appellant being advised that the last-mentioned judgment of the 30th of July 1828, as also the judgment of the 13th of June 1827, are contrary to law, prayed leave to appeal therefrom to your Majesty in Council; and having entered into the proper security for prosecuting the same, and the usual order having been made for that purpose, and leave granted accordingly, he has appealed therefrom to your Majesty in Council, and humbly praying that the said judgments of the 13th of June 1827 and 30th of July 1828 complained of and appealed from may be reversed, altered and set aside, with costs, or for other relief in the premises, the Lords of the Committee, in obedience to your Majesty's said Order of Reference, did, on the 7th of December 1833, take the said petition and appeal into consideration, together with a petition of the appellant, setting forth that, subsequently to the adjudications appealed from, certain evidence in the last-mentioned petition particularly mentioned or referred to had been discovered, which the appellant was advised might be material to his case, and humbly praying (amongst other things) that the appellant might, upon the hearing of the said appeal, have such benefit of the said petition as should appear just; and after reading certain affidavits of Mary Hanson, the Honourable Francis Ward Primrose, John Davidson, and Alexander Fraser, the appellant's solicitor, their Lordships were pleased to order (by consent of counsel on both sides) that the appellant should have the benefit of the said petition, and of the facts stated in the said affidavits at the hearing of the appeal, as if the said petition and affidavits had been before the Court of Original Jurisdiction in Lower Canada when the cause was heard by that court. And their Lordships having this day resumed the consideration of the said appeal, and having heard counsel on both sides thereupon, their Lordships do agree humbly to report, as their opinion to your Majesty, that the judgment of the Court of Appeals for the Province of Lower Canada, of the 30th of July 1828, should be affirmed, and the appeal therefrom be dismissed; and, in case your Majesty should be pleased to order accordingly, then their Lordships do direct that the sum of 318*l.* 17*s.* 6*d.* sterling for costs be paid by the appellant to the respondents.

His Majesty having taken the said report into consideration was pleased, by and with the advice of his Privy Council, to approve thereof, and to order, as it is hereby ordered, that the judgment of the Court of Appeals for the Province of Lower Canada, of the 30th of July 1828, be and the same is hereby affirmed, and that the appeal therefrom be and the same is hereby dismissed this Board, with the said sum of 318*l.* 17*s.* 6*d.* sterling for costs; whereof the Governor, Lieutenant-governor, or Commander-in-chief of the province of Lower Canada for the time being, and all other persons whom it may concern, are to take notice, and govern themselves accordingly.

(signed) W. L. Bathurst.

— No. 4. —

Correspondence
respecting
Sir J. Caldwell.COPY of a DESPATCH from the Earl of *Gosford* to Lord *Glenelg*.

My Lord,

Government House,
Montreal, 15th July 1836.

ON the receipt of your Lordship's despatch of the 4th of August last, enclosing an order of His Majesty in Council, affirming the decisions of the courts in this province, in regard to the seigniority of Lauzon, I lost no time in placing the order in the hands of the attorney-general, with directions to take the necessary steps for giving it effect; but upon learning that if a writ of execution upon the judgments had been immediately issued, the sale of the property must have taken place without delay, and at a great sacrifice, from the necessary absence of competition consequent on the want of sufficient notice, I was induced to postpone the sale until the first of this month, so as to give sufficient time for advertising the property, and to enable persons wishing to become purchasers to make the necessary inquiries and arrangements; in addition to this, as the legislature was then on the eve of meeting, I thought it right to afford the House of Assembly an opportunity of expressing its views on a question intimately connected with the financial interests of the province; nor was I wrong in supposing that this subject would engage their attention. They appointed, in the early part of the year, a special committee for the purpose of inquiring into the state of affairs relating to the defalcation of the late Receiver-general, with an instruction to consider what measures ought to be adopted by the Assembly in order to secure the rights of the province. The committee made its report, (a copy of which is herewith transmitted, enclosure No. 1,) on the 25th of February last, and after stating that in their opinion a sale of the seigniority of Lauzon by the sheriff could not be otherwise than prejudicial to the interests of the province, in consequence of the small number of capitalists who could or would invest in the property a sufficient sum of money, they recommended that the offer made to them by Sir John Caldwell, that the seigniority of Lauzon should be taken in full discharge of whatever was due from him to the province, should be accepted; and they requested leave to bring in a bill for that purpose. The House did not concur in the recommendation of the committee, but they permitted a bill to be introduced, wherein, after a recital that it would be advantageous to the province to acquire the seigniority of Lauzon at the intended sheriff's sale, in case no bidding should be made approaching the real value of the seigniority, three persons, two of whom were members of the Assembly, were appointed to purchase the seigniority on behalf of the province. This bill, a copy of which I have the honour to enclose for your Lordship's information, was passed by the Assembly, but did not meet with the concurrence of the legislative council, and consequently the management of the matter still rests with the executive government.

I may here observe, that an offer to purchase the seigniority for 150,000*l.*, payable in three equal instalments, was made to Sir John Caldwell at the latter end of December last, by a gentleman of the United States, on behalf of himself and others, which was referred to me for approval, and which I should have accepted had the parties agreed to the conditions I thought it right to insist on, namely, that the debt due to the Crown should be paid up in two instalments, one of 50,000 *l.* on the 10th of May last, and the balance on the 10th of May 1838, with interest in the meantime at six per cent., to be secured on the property. I enclose copies of the correspondence on this subject, Nos. 3, 4, and 5. From circumstances not in my knowledge this arrangement did not take place, but the proposal proves how valuable the seigniority is considered even by the inhabitants of the neighbouring states. It certainly possesses great advantages, both in its position and capabilities. Situated on the southern bank of the St. Lawrence, immediately opposite to the city and harbour of Quebec, and comprising an extent of territory of 36 square leagues, it is peopled by a numerous tenantry, and enjoys unusual facilities in mill streams and other conveniences for an extensive and lucrative trade in timber.

Notwithstanding the intrinsic value of the property, all the information I could collect led to the belief, that, if disposed of at the present moment by sheriff's sale it would not, from the dearth of competition, the great depression of the money market, and the prompt payment in one sum, required at such sales,

No. 1.

No. 2.

Nos. 3, 4, 5.

Correspondence
respecting
Sir J. Caldwell.

realize a sum nearly equal to the amount of the debt due by Sir John Caldwell; and as it was evidently the wish of the Assembly, in their late session, that the property should not be sacrificed, and being moreover aware, from certain communications I had with several members who took a prominent part in the management of this matter while it was before the Assembly, that a further postponement of the sale, until after their next meeting, would be acceptable to that body, in order to afford another opportunity for satisfactorily adjusting this long pending question, I thought it advisable on all these grounds to countermand the sale. It did not therefore take place on the 1st of July, and my present purpose is to fix on some other day sufficiently distant to enable the Assembly, if they think proper, again to take the subject into their consideration, and I hope the difficulty will be finally disposed of during their next session. In the meantime I have, with the consent and at the request of Sir John Caldwell, appointed a receiver to collect, on the part and for the use of the province, the rents and profits of the seignior; and I have only to add that the arrangement entered into with Sir John, under the authority of the Treasury Minute of the 9th of March 1826, (enclosed in Earl Bathurst's despatch of the 21st of that month,) by which that gentleman was allowed to continue in possession of Lauzon, on condition of paying an annual sum of 2,000 £., is now at an end, and that all the rent accruing under that stipulation has been fully paid up to the 14th day of December last, when the arrangement terminated.

The amount due from Sir John to the Province and to the Jesuits' estate at the present time, is between 81,000 £. and 82,000 £. sterling. The Assembly, however, make it much more by calculating interest on the sum due to the Province, although by the terms of the judgment it does not bear interest.

I have the honour to be,

My Lord, your most obedient servant,

Gosford.

Enclosures in No. 4.

(No. 1.)

Report of the Special Committee appointed for the purpose of inquiring into the present state of the Affairs relating to the Defalcation of the late Receiver-general, John Caldwell, with an instruction to consider what measures ought to be adopted by the House of Assembly, in order to secure the rights of this Province.

YOUR Committee have referred to those parts of the journals of your Honourable House which relate to the defalcation of John Caldwell, Esq., in his quality of receiver-general of this province, and have minutely considered the Report of the Special Committee appointed during the session of the year 1834 to inquire into the matter aforesaid. Your Committee have also examined, with the most scrupulous attention, all the records of the proceedings in the Court of King's Bench in the several actions brought against the said John Caldwell, Esq., heretofore receiver-general of this province, and are of opinion that the judges who pronounced the judgment, without interest, in the cause number 655, are alone responsible for this violation of the laws in force in this country; and this opinion is conformable to the Report of the Committee of 1834. Nevertheless, your Committee are fully convinced that although the said judgment was given without interest, the laws of the country are so positive on this point that the province has an incontestable right to the said interest, of which right nothing can deprive it. Your Committee have seen, by advertisements inserted in the Gazette by authority, that the seignior of Lauzon, the sole remaining portion of the immoveable property belonging to the said John Caldwell, Esq., is to be sold by sheriff's sale on the 1st of July next, and are of opinion that a sale of that kind could not be otherwise than prejudicial to the interests of this province, on account of the small number of capitalists who could or would invest in the said property a sufficient sum of money to pay anything near the amount due to the province by the said John Caldwell, Esq. Your Committee having also learnt that the property of the said John Caldwell, Esq., is liable to some other hypothecations, are of opinion that these latter cannot affect the rights of the province, which has a privileged hypothecation preferable to every other debt due by the said John Caldwell, Esq.

It is with the greatest regret that your Committee perceive the innumerable difficulties which must arise in the discussion of a question of this importance, and which might be removed if your Honourable House were disposed to listen favourably to certain offers and proposals made to your Committee on the part of the said John Caldwell, Esq. This circumstance has induced your Committee to ascertain, by the evidence of Messrs. Bowen and Têtu, the first being the bearer of a notarial power of attorney from the said John Caldwell, Esq., now in the United States, and the latter being in correspondence with him, that the said

said John Caldwell, Esq., is disposed to give up, and even requests your Honourable House to accept, in payment of the balance now due from him to the province, the said seignior of Lauzon, which he is ready to make over provided a full discharge be given him of the whole debt due by him, both principal and interest. On which proposals your Committee, after a minute examination, and after having obtained sufficient exact information as to the yearly value of, and the improvements which are continually taking place in the said seignior, of which a plan and statistical account accompanies this Report, are of opinion that, for the sake of cutting short a great number of litigious difficulties, and of avoiding the enormous expenses which always attend a sheriff's sale, and the great sacrifice which such sale would cost the province, it would be expedient to listen favourably to the proposal made by the said John Caldwell, Esq.

In consequence of the opinion they have thus announced, your Committee request that leave be given them to bring in a Bill for the purposes aforesaid.

The whole, nevertheless, humbly submitted.

25 February 1836.

(signed) *L. T. Besserer*, Chairman.

Correspondence
respecting
Sir J. Caldwell.

(No. 2.)

Bill to provide for the appointment of Commissioners to bid at the Sale of the Seignior of Lauzon, by the Sheriff, and for other purposes therein mentioned.

Most Gracious SOVEREIGN,

WHEREAS it would be advantageous for the province to acquire the property of the seignior of Lauzon when the same is sold by the sheriff, in case no bidding should be obtained to an amount approaching the real value of the said seignior; may it therefore, &c., and be it enacted, &c., that Louis Theodore Besserer, Hector Simon Huot, and William Henderson, Esquires, of the city of Quebec, shall be Commissioners for carrying this Act into effect, that is to say, to bid at the sale of the said seignior of Lauzon by the sheriff, if in their opinion and judgment the biddings then made and offered should not be for an amount nearly equal to the value of the said seignior, and in such case to become the purchasers of the said seignior of Lauzon, for and on behalf of the province at such sale; and the said Commissioners shall, after the adjudication, if the said seignior should be adjudged to them in their said quality, administer the affairs of the said seignior until the session of the provincial Parliament next after such adjudication; and shall likewise cause plans to be made of the different subdivisions which might be made for the purpose of effecting a sale of the said seignior in different portions, if it should be deemed necessary or advantageous to sell the same, and shall report to the House of Assembly of this province within the first 15 days of the session aforesaid.

2. And be it, &c., that it shall be lawful for the person administering the Government of this province to advance to the said Commissioners, by warrant under his hand, and out of any unappropriated monies in the hands of the receiver-general, a sum not exceeding 500 *l.* currency to meet the necessary expenses occasioned by the purchase of the said seignior, and the making of the said plans, and also the necessary expenses of causing such work to be done and such precautions to be adopted as may be requisite to prevent the accidents which might otherwise arise from the spring floods to the several works and constructions in the said seignior; and the said Commissioners are hereby authorized to cause such work as aforesaid to be performed, and for that purpose to enter into and upon the said seignior, and the works and constructions aforesaid.

3. And be it, &c., That if the said seignior should be purchased by the said Commissioners, the sheriff of the district of Quebec shall not be entitled to any commission or poundage on the price for which the same shall be sold.

4. And be it, &c., That every person to whom shall be entrusted the expenditure of any portion of the monies hereby appropriated, shall make up detailed accounts of such expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance (if any) remaining in his hands, and the amount of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the receiver-general, and that every such account shall be supported by vouchers, therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the 10th day of April and 10th day of October in each year, during which, such expenditure shall be made, and shall be attested before a justice of the Court of King's Bench, or a justice of the peace, and shall be transmitted to the officer whose duty it shall be to receive such account within 15 days next after the expiration of the said periods respectively.

5. And be it further enacted, &c., That due application of the monies appropriated by this Act shall be accounted for to His Majesty, his heirs and successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, his heirs and successors, shall direct, and that a detailed account of the expenditure of all such monies shall be laid before the several branches of the provincial legislature within the first 15 days of the next session thereof.

Correspondence
respecting
Sir J. Caldwell.

(No. 3.)

Sir John Caldwell,

Portland, 29 December 1835.

UNDERSTANDING the seignior of Lauzon in Lower Canada, belonging to you, is for sale, and knowing of a number of persons who would join me in the purchase, should they be convinced, after having made all the necessary inquiries respecting its value, it would be a bargain, I am willing to go to the expense of making the inquiry on condition you give me a bond of the property until the 10th of May next, my paying you at that time 200,000 dollars, 200,000 more in two years, and the remaining 200,000 in four years, making, in the whole, 600,000; the title to be satisfactory. Should you conclude to give me the refusal, as above requested, you will please to remit it as soon as convenient.

Yours respectfully,

(signed) *Stephen Cummings.*

(No. 4.)

Sir,

Tremont, Boston, 31 December 1835.

I HAVE to acknowledge the receipt of your letter from Portland, 29 December, in which you ask for a bond of the seignior of Lauzon on condition of paying 600,000 dollars for said seignior; 200,000, as I understand it, on or before the 10th May, in Quebec; 200,000 in two years, and remaining 200,000 in four years. I beg, in reply, to observe that, from the peculiar situation in which I stand in respect of the Government of Lower Canada, I cannot make any such arrangement without their approval. I shall write immediately for the same, and on receiving it will give you instant communication thereof.

I am, Sir, your obedient servant,

Dr. Cummings, Portland Maine.

(signed) *John Caldwell.*

(No. 5.)

Sir,

Castle of St. Lewis, Quebec, 16 January 1836.

IN acknowledging the receipt of your letter of the 31st ultimo, transmitting a proposal from Dr. Stephen Cummings, of Portland Maine relative to the purchase of the seignior of Lauzon, together with a copy of your answer thereto, I am directed to acquaint you in reply, that the Governor-in-chief having given to Dr. Cummings's proposal that consideration which its importance demands, and being desirous of affording you every advantage in his power, in the disposal of the property, consistent with the public interest, his Excellency will not object to give the necessary orders to confirm an arrangement with Dr. Cummings, subject to the following conditions:—That the amount of the debt which may be due by you to the Crown on the 10th day of May next shall be paid up in two instalments, one of 50,000*l.*, or 200,000 dollars, and the other to comprise the balance which may remain due after the payment of that sum.

The first instalment to be paid on the 10th of May next, and the second to be paid on or before the 10th of May 1838, and to bear interest from the 10th of May next, at six per cent. per annum, payable half-yearly.

When the first instalment of 50,000*l.* shall have been paid, satisfaction will be entered upon the judgment to that extent, but the judgment will remain in force as to the balance of the debt due to the Crown, with interest as above, until the whole has been fully discharged. If the interest on the balance be not punctually paid the Government may seize and sell for the interest and balance.

Under and subject to these conditions a conveyance of the property may be made by you, and a *main levée* shall be granted until the 10th of May 1838, when, if the debt and interest, as above, be fully and regularly paid the judgment will be entirely vacated.

I have, &c.,

(signed) *S. Walcott.*

— No. 5. —

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Gosford*.

My Lord,

Downing-street, 18 September 1836.

I HAVE the honour to acknowledge your despatch of the 15th July, No. 79, detailing the steps which you have taken with reference to the seignior of Lauzon,
in

in consequence of the decision of the Privy Council on the appeal respecting that property. It seems only necessary for me at present to express my approbation of the course which you have pursued. The delay in the sale of the property appears to have been fully justified by a consideration of public interests. I should, indeed, have been happy to have learned that the measure contemplated by the House of Assembly for disposing of it at an adequate price had been completed, but as that was not the case I approve of your having again postponed the sale. If, however, no steps should be taken on the subject by the Assembly during their next session, it would, I think, be advisable not to incur any further delay. I do not, however, convey to you any positive instructions on that point, because I am aware that the selection of the time and conditions of the sale must depend, in great measure, on local and temporary circumstances; but in committing the matter to your discretion, I would beg to impress on you the anxiety of His Majesty's Government to bring this long pending and embarrassing question to an early and satisfactory conclusion.

I have, &c.
(signed) *Glenelg*.

Correspondence
respecting
Sir J. Caldwell.

LOWER CANADA.

COPY of any Information received from the Earl of Gosford respecting the Debt due by Sir J. Caldwell to the Province of Lower Canada; together with a Copy of the Report of a Select Committee of the House of Assembly of that Province on the same subject.

(Mr. Roebuck.)

Ordered, by The House of Commons, to be Printed,
1 June 1837.